



# State of Wisconsin • DEPARTMENT OF REVENUE

DIVISION OF STATE AND LOCAL FINANCE • BUREAU OF UTILITY AND SPECIAL TAXES • 125 South Webster Street • P.O. Box 8933 •  
Madison, WI 53708-8933 • TELEPHONE: (608) 266-1594 • FAX: (608) 264-6887

## REAL ESTATE TRANSFER NEWS (RETN)

October 2000

The following questions and answers are given as general interpretations of the Wisconsin Administrative Code and Statutes. Should you have any questions, please write to:

Division of State & Local Finance  
Bureau of Utility & Special Taxes  
Wisconsin Department of Revenue  
P.O. Box 8933  
Madison, WI 53708-8933

This newsletter may be found on the Internet at <http://www.dor.state.wi.us/ust/retn.html>

**1Q. I own two adjoining parcels with two tax parcel numbers. Before I can build a garage on the vacant one, I need to combine them under one legal description for zoning purposes. Do I need to complete a transfer return when I file the deed combining the lots?**

**A.** No, this is not a conveyance per s. 77.21(1), Stats. since you already own the parcels and are not conveying any real estate interest. The document should have a statement to the effect that "this instrument is intended to combine the legal description and is not a conveyance per s. 77.21(1), Stats." However, by filing a transfer return, you will be assured that the tax lister and local assessor will be informed of the combined parcels.

**2Q. The Register of Deeds returned the quit claim deed and transfer return indicating that pursuant to section 190.11 railroad conveyances must be filed with the Department of Financial Institutions (DFI). Payment of transfer fees are payable to DFI as stated in the statute. Is this true?**

**A.** Partially. Below is the question from REAL ESTATE TRANSFER NEWS, January 1997. They can record both places, but they must file with DFI. As in the example, if recording at the county first, the return will be completed showing a fee due. The deed and return is then recorded at the county and the deed (not the return) will be sent back to the person so indicated on the deed. Then when filing with DFI, a new return must be completed with exemption s. 77.25(3), Stats. on Line 20 with the county document number provided on Line 20a. It makes no difference whether filing is done first with DFI or the county. Two returns must be completed, the first with a fee and the second with exemption 3 which "confirms ... a conveyance previously recorded."

**2Q. Do railroad companies need to file conveyances with the Department of Financial Institutions even if they have filed with the Register of Deeds?**

**A.** Yes. According to sec. 190.11, Stats. "Every conveyance or lease, deed of trust, mortgage or satisfaction... shall be filed in the office of the secretary of state ..." (now the Department of Financial Institutions, (DFI). When a railroad wants to record at both the county and DFI, a transfer return will be required at each location; however, only one transfer fee will be required. If the document is first recorded with the county and the fee paid, then when the document conveying the same property is recorded at DFI, the transfer return is exempt from fee per sec. 77.25(3), Stats. as confirming a prior recorded document. (Prior RETN 1/92, Q 19.)

**3Q. Section 705.20 through 705.30 of the Wisconsin Statutes allows for a non-probate transfer of assets. A single person and/or a couple could provide for the property to pass at their death to their beneficiaries. Since there is no passage of ownership interest occurring when filing a document under this section, is a transfer return required?**

- A. No return is needed. The provisions of s. 705.20, Stats. creates a non-probate transfer of numerous types of assets by executing a document transferring the assets to a designated person upon the owner's death. The designated person receiving the transfer on death acquires no interest or right until the grantor dies. Therefore, when a document is recorded under s. 705.20, Stats. a return is not needed and the document should indicate words to the effect that "this is a deed per s. 705.20, Stats. and not a conveyance under s. 77.21(1), Stats.". Upon the death of the grantor, when filing the deed under s. 705.20, Stats., a return will not be required since exemption s. 77.25(11), Stats. will apply.

**4Q. How do I complete the transfer returns when there is a partition among siblings who are co-owners of real estate? All three jointly own three properties: Property 1 has a fair market value of \$60,000, and properties 2 and 3 have a value of \$90,000 each. Sibling A is to receive property 1, Sibling B is to receive property 2, and Sibling C is to get property 3.**

- A. Create an "Addendum" to attach to each of the three returns that lists the names and social security numbers of the parties, the fair market value of each parcel, and how the values are allocated as follows:

Property 1 to Sibling A:

<u>Name &amp; Soc. #</u>	<u>Value Prior</u>	<u>Value After</u>	<u>Value Change</u>
Grantor: Sibling B	\$ 20,000	\$ 0.00	(\$20,000)
Grantor: Sibling C	\$ 20,000	\$ 0.00	(\$20,000)
Grantee: Sibling A	<u>\$ 20,000</u>	<u>\$ 60,000</u>	<u>\$ 40,000</u>
Total FMV	\$ 60,000	\$ 60,000	\$ 0

Property 2 to Sibling B:

<u>Name &amp; Soc. #</u>	<u>Value Prior</u>	<u>Value After</u>	<u>Value Change</u>
Grantor: Sibling A	\$ 30,000	\$ 0.00	(\$30,000)
Grantor: Sibling C	\$ 30,000	\$ 0.00	(\$30,000)
Grantee: Sibling B	<u>\$ 30,000</u>	<u>\$ 90,000</u>	<u>\$ 60,000</u>
Total FVM	\$ 90,000	\$ 90,000	\$ 0

Property 3 to Sibling C:

<u>Name &amp; Soc. #</u>	<u>Value Prior</u>	<u>Value After</u>	<u>Value Change</u>
Grantor: Sibling A	\$ 30,000	\$ 0.00	(\$30,000)
Grantor: Sibling B	\$ 30,000	\$ 0.00	(\$30,000)
Grantee: Sibling C	<u>\$ 30,000</u>	<u>\$ 90,000</u>	<u>\$ 60,000</u>
Total FMV	\$ 90,000	\$ 90,000	\$ 0

Total Value Of All Properties:

<u>Name &amp; Soc. #</u>	<u>Value Prior</u>	<u>Value After</u>	<u>Value Change</u>
Sibling A	\$ 80,000	\$ 60,000	<b>(\$20,000)</b>
Sibling B	\$ 80,000	\$ 90,000	\$ 10,000
Sibling C	<u>\$ 80,000</u>	<u>\$ 90,000</u>	<u>\$ 10,000</u>
Total FMV	\$240,000	\$240,000	\$ 0

In a "true" partition, there is no gain or loss of an ownership interest, i.e., value. The above "Addendum" illustrates how Sibling A has "conveyed" an interest in value of **\$20,000**. The fee due on the value of \$20,000 would be allocated on the two deeds where Sibling A is the grantor. Siblings B and C have gained an interest over all; therefore, they have not "conveyed" a value in the real property and are exempt from fee per s. 77.25(5), Stats.

#### 4Q. A continued

Complete the transfer returns as follows and the remainder of the returns in the manner as described per the instructions and attach the "Addendum" to each return:

Completing the return for the deed to Sibling A:

Line 40, Type of Transfer: check box "Other" and explain "partition, see addendum"

Line 18, Total value of Real Estate Transferred: \$40,000

Line 19, Transfer Fee: \$0.00

Line 20, Exemption: 5

Completing the return for the deed to Sibling B:

Line 40, Type of Transfer: check box "Other" and explain "partition, see addendum"

Line 18, Total value of Real Estate Transferred: \$60,000

Line 19, Transfer Fee: \$30.00 (payable by A for one half the \$20,000 value differential)

Line 20, Exemption: 5 (applies to B and C as they have no gain or loss in value)

Completing the return for the deed to Sibling C:

Line 40, Type of Transfer: check box "Other" and explain "partition, see addendum"

Line 18, Total value of Real Estate Transferred: \$60,000

Line 19, Transfer Fee: \$30.00 (payable by A for one half the \$20,000 value differential)

Line 20, Exemption: 5 (applies to B and C as they have no gain or loss in value)

Note that the property value is determined by the fair market value of each of the properties per s. 77.21(3), Stats. DO NOT equalize the value by adjusting the fair market value with any liens on the property.

### We're moving!

The Department of Revenue will have new headquarters in November 2000, when it completes its move to **2135 Rimrock Road**, Madison. The new building is located just off the Madison South Beltline, right across from the Dane County Coliseum. If you need to meet with any Madison area Revenue employees during the month of November, please call ahead to find out which building they are currently located in, as the move will take more than a week to complete.

Telephone numbers will stay the same.

